

## REMARKS

### **Status of Claims:**

Claims 1-6, 13-18, and 25 have been canceled. Thus, claims 7-12, 19-24 and 26-27 remain for examination.

### **Prior Art Rejections:**

Claims 1-4, 6, 13-15, 16, 18 and 25 stand rejected under 35 U.S.C. § 103 as obvious over Watanuki in view of Nelson. Claims 5 and 17 stand rejected under 35 U.S.C. § 103 as obvious over Watanuki and Nelson and further in view of Schmandt. Claims 7-9, 11, 19-21, 23 and 27 stand rejected under 35 U.S.C. § 103 as obvious over Watanuki in view of Nassimi. Finally, claims 12, 24 and 26 stand rejected under 35 U.S.C. § 103 as obvious over Watanuki in view of Nelson and Nassimi.

The examiner's rejections are respectfully traversed.

The present invention relates to an audio player which can be driven by a battery and sets up radio connection with a headset. The audio player lowers the sound quality (for example, changing 5.1ch to 2ch) when the remaining capacity of the battery becomes lower than a predetermined value so as to permit playing audio data as long as possible. By so doing, the present invention can reduce the power consumption to lengthen the continuous operation time by the battery.

The Examiner states that the receiving device, D/A converting/amplifying circuit and speaker of Watanuki correspond to the audio data reproduction means of the present invention. However, Watanuki does not describe anything about two levels of sound quality corresponding to the first sound quality and second sound quality that represent an important claim limitation of the present invention. That is, Watanuki does not disclose "audio data reproduction means" of the present invention,

The Examiner recognizes that Watanuki does not disclose "control means" of the present invention that switches sound quality from the first sound quality to the second sound

quality. The examiner states that Nassimi teaches that power control is performed by turning on and off or muting the receiver. The Examiner therefore states that the present invention can be obtained by the references.

However, Nassimi switches the listener's state by turning on/off and muting the receiver, and differs from the present invention wherein the sound remains on but the sound quality is switched between the first and second sound quality, e.g., without muting or turning off the receiver.

It is pointed out that sound quality and sound volume are basically different things. Changing the sound volume is unfavorable for the user to listen to audio data., and thus, the present invention does not change the sound volume.

Thus, the "control means" of the present invention is not disclosed by the combined teachings of Watanuki and Nassimi nor any of the remaining art of record. MPEP § 2143.03 states that "[t]o establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art." In light of the difference discussed above, it is submitted that the PTO has not made out a *prima facie* case of obviousness under the provisions of 35 U.S.C. § 103. As such, applicant's claims are deemed patentable over the prior art.

**Conclusions:**

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for

such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-0872.

Respectfully submitted,

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